IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION 5:08cv37

JAMES A. GUNNINGS, SR.,)
Plaintiff,)
Vs.	ORDER
MICHAEL J. ASTRUE, Commissioner of Social Security,)))
Defendant.)))

THIS MATTER is before the court upon plaintiff's Motion for A Stay (#7). Review of plaintiff's motion and the pleadings reveals that the Commissioner has not objected within the time allowed or raised the issue of whether plaintiff's failure to reflect consultation in his motion, as required by Local Civil Rule 7.1(B), should result in summary denial of the request.

In both civil and criminal cases, in the first instance and on appeal, courts follow the principle of party presentation, *i.e.*, the parties frame the issues for decision and the courts generally serve as neutral arbiters of matters the parties present.

<u>Greenlaw v. United States</u>, ___ U.S. ___, 2008 WL 2484861 (2008). No reason appearing why the relief should not be granted, the court enters the following Order.

ORDER

IT IS, THEREFORE, ORDERED that plaintiff's Motion for A Stay (#7) is **ALLOWED**, and consideration of the Commissioner's Motion to Dismiss is **STAYED** pending decision of the Appeals Council on plaintiff's request to reopen and enlarge the time for filing this action, *nunc pro tunc*.

Signed: August 12, 2008

Dennis L. Howell United States Magistrate Judge